



SAFETY CORNER

Treadmill Dangers

Treadmills are the most popular piece of exercise equipment today. Go to any Y or health club and you will see row upon row of them. More than 50 million Americans use them.

But, according to federal statistics, treadmills are not only the most popular piece of workout equipment; they are also the most dangerous. The machines present two main dangers: (1) risk of falling and (2) risk of getting a body part (usually a finger) caught in the “pinch point” where the belt meets the metal frame.

Treadmills injure about 500,000 people a year. Injuries include broken bones, amputated fingers, and concussions. Famous examples abound: Boxer Mike Tyson’s four-year-old daughter was strangled to death by a home treadmill’s cord. More recently, Sheryl Sandburg’s (Facebook’s second-in-command) husband, David Goldberg, a well-known digital music entrepreneur and Yahoo executive, died from a severe head injury from falling off a treadmill.

WELCOME TO THE

Michaels & Smolak Newsletter!

Don’t hesitate to send your comments (*the good, the bad and the ugly!*) to Mike Bersani at bersani@michaels-smolak.com.

And if you like what you see, please add us on Facebook, follow us on Twitter ([@cnylawyers](https://twitter.com/cnylawyers)) and subscribe to our blog (centralnewyorkinjurylawyer.com).

Our Team



Lee Michaels



Jan Smolak



Michael Bersani



David Kalabanka

the

MICHAELS

& SMOLAK

pledge

we deeply appreciate the trust our clients have placed in us and we will strive to uphold that trust by working hard and fighting for our clients' rights.

One common type of accident happens when, for whatever reason, your feet stop moving forward fast enough. As you slow down or stop, the moving belt starts to carry your feet toward the back end drop off, like a canoe heading for a waterfall. If your feet get pulled off the end, you can get slammed against the floor or a wall.

You can fall and get hurt on a treadmill in many ways. Just do a search in youtube for "treadmill accidents" and you'll see some funny treadmill accidents, but also some gruesome ones.

The solution to treadmill risks is not to give up the treadmill. After all, getting the exercise probably increases your life expectancy. The solution is to use the treadmill with focus and responsibility. The main culprit is distraction. To be safe, you need to really concentrate on what you are doing.

Even if you are very careful, though, sometimes it's the treadmill's fault. The major defects in treadmills that cause injuries are: (1) defects in the design of the treadmill (example: a line of treadmills designed without a "kill" switch that shuts off the machine when the user falls), and (2) Manufacturing defects (a problem not with the design, but with a particular treadmill as it came out of the assembly process).

Sometimes health club owners cause treadmill accidents by failing to properly maintain treadmills or warn customers of problems the treadmills have exhibited. For example, in *Christopher Berrier v Reliable Development Corp.*, an Indiana jury compensated a man to the tune of \$9 million for permanent disabling spinal injuries suffered when the treadmill he was running on suddenly stopped, throwing him forward head first into the display panel. The jury placed 90 percent of the fault on the health club operator (who apparently was aware of the problem but failed to take the treadmill out of service or warn the customer) and 10% on the manufacturer.

Treat your treadmill with respect. Realize that, like a car, it is a dangerous piece of machinery. Then focus on what you are doing. Don't get distracted. If you are using a treadmill at a gym, make sure it is a reputable place with a good equipment maintenance program. Now have fun on your run.



SAFETY CORNER

Lane Splitting On A Motorcycle: Dangerous And Illegal

It's motorcycle season again, which means it's biker injury and death season again. Many of those injuries and deaths are not the bikers' fault; four-wheel drivers just don't see motorcycles. They then cut them off or come blasting out from stop signs into their right of way.

But of course many bikers cause their own death or serious injury, too. One way to do it is called "lane-splitting". That's where you ride through the space between cars in parallel traffic lanes. If a police officer catches you, it'll cost you 2-points on your license. If a car "catches" you, it could cost you your life.

The practice is outlawed for a reason. A motorist could change lanes into you, or open his door and hit you, or drift into you and strike you, all because your sudden presence between lanes is so unexpected. As you pass those slow or stopped vehicles, you will also pass thorough their blind spot, so when they want to change lanes, they may not see you.

Hey motorcyclist. Don't lane-split. If you do, and you get injured, it will be nearly impossible to get you a clean 100% victory in Court. At least some of the fault will lie with you, no matter how careless the car driver was.

SAFETY CORNER

Bicycling Safety

Mike Bersani at the Musselman Triathlon

Fifty percent of Michaels & Smolak are avid cyclists: Lee Michaels & Mike Bersani. They have both already clocked several hundred miles this spring. Lee and Mike wish to remind their fellow cyclists of these safety tips:

LOCK EYES WITH THOSE

GUYS: At intersections and driveways, try to "lock eyes" with motorists to be sure they see you. Don't assume they see you. Assume you are invisible. Unfortunately, to many motorists, you are!

BRIGHT IS RIGHT: Bright colors please, and blinking rear and front lights, even in the daytime. This **MIGHT** make them see you!

RIGHT IS RIGHT: Whenever possible ride to the right of traffic but an open-car-door width away from parked cars.

PRACTICE ZEN: No daydreaming allowed on two wheels. Be in the here and now. You need to see everything going on because they won't see you.

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DON'T BE A TOOL, FOLLOW THE RULE: If you follow the rules of the road, drivers will be able to predict what you do. But if you don't, you may become a hood ornament.

LOSE THE TUNES: Earphones and music are a good idea for a run or a walk, but not for a ride. You need to hear that car approaching from behind. In New York you are required to have at least one ear free while riding a bike (but two ears are better than one).

GO WITH THE FLOW: Some cyclists think that they can and should ride against traffic just like pedestrians or runners. **WRONG.** Because they are faster than walkers or runners, bicyclists are safest when they ride in the same direction as traffic. Going against traffic is most dangerous at intersections where drivers are looking left for approaching vehicles.

DON'T SURPRISE 'EM: Hand signals tell motorists what you are going to do. Believe me, you want them to know!

PROTECT YOUR MOST IMPORTANT ORGAN: Your brain, of course. Wear a bicycle helmet! Not legally required in New York if you are 14 or over, but highly, highly recommended.



Sam Chindamo, Jr., Owner

COMMUNITY SPOTLIGHT

Sam's Shoe Service

We're Auburn's homegrown personal injury law firm. And although we are from a small town, we get big city results. Our clients come from all over, including Syracuse and Rochester, because of our reputation.

But we are not the only bigtime business in this small town. In the next few issues, we are going to spotlight some of Auburn's other homegrown business treasures.

Sam's Shoe Service was an easy first choice. It's right across the street from us at 20 East Genesee Street. Here at Michaels & Smolak, we're all Sam's fans and longtime customers. So we just strolled across the street with a digital recorder and put Sam Chindamio Jr. on the spot:

US: Thanks for letting us interview you Sam. First question: How did Sam's Shoe Service get started?

SAM: Well, my dad, Sam Sr., came over from Italy in 1950 and landed a job at H & L Green's, Auburn's own department store. He worked in the basement fixing shoes. Then in 1972 he ventured out on his own and opened Sam's Shoe Service on Market Street.

US: When did you get involved?

SAM: I started working for my dad in sixth grade in my free time, and really loved the business, loved helping all the friends and customers who walked in the door. So after high school I started working full time with him and in 1985 he let me buy the business from him and agreed to keep working with me.

US: Was the store still on Market Street?

SAM: Yeah, but in 1992 I bought our current building on East Genesee street and moved in here.

US: Not many towns have a shoe repair shop anymore. In this throw-away society, most shoe repair shops closed their doors long ago. How did you survive?

SAM: As traditional shoe repairmen retired and closed shop, we stayed open and inherited their business. Now the closest shoe repair service to us is in Syracuse. Our customer base is within a 40 mile radius, which includes Ithaca and Canandaigua. They come from all over! But we could not have survived without giving good value at a good price.

US: Any other secrets to your longevity?

SAM: Well, another thing is that we don't just do shoe repairs. We repair leather products including purses, gloves, golf bags, belts, zippers, backpacks, luggage — you name it. Second, we also sell new shoes and boots. That's another important part of our business.

US: Do you advertise?

SAM: Minimally. We have a website so people can look us up online. We run a few ads. But we really rely on word of mouth. Almost every new customer who walks in our door has heard of us from a friend or relative who was pleased with the work we do.

US: Sam, do you like what you do?

SAM: Absolutely love it. My dad and I work great together. We have a terrific staff. And best of all is our customers. Whether it's a pair of shoes, a handbag or a leather coat, our customers love it when we allow them to "keep it longer and enjoy it more" and at a price that makes sense. It's fun to breathe new life into old things. It's kind of like miracle work! We also get our customers new footwear at competitive prices. They're happy, we're happy. What's not to like?

areas in which WE CAN HELP

our attorneys can help with all personal injury & malpractice cases such as:

- Motor Vehicle Accidents
- Catastrophic Injuries
- Construction Accidents
- Slip/Trip and Falls
- Wrongful Death
- Medical and Legal Malpractice
- Defective Products
- Almost any Accident or Malpractice Case of Any Kind

attention attorneys

INJURY & MALPRACTICE REFERRALS

a lot of lawyers and law firms refer all their injury and malpractice cases to Michaels & Smolak. Why?

- (1) We are known for getting top dollar (in settlement or verdict) for the referred case
- (2) We carry all expenses of the case
- (3) We give personal attention to your clients

Consider referring your cases to us!

CELEBRITIES IN THE NEWS

Alan Dershowitz's Defamation Lawsuit

Even though the bulk of our work is New York personal injury litigation, we often get asked to represent plaintiffs in defamation (slander and libel) claims. The callers soliciting our services are usually livid that so-and-so made disparaging remarks about them, all lies. They are outraged. Of course they are. A good reputation besmirched is a terrible thing.

Still, it is one thing to be angry, and another to embark on the long and expensive journey of civil litigation. We usually have to bill a client by the hour, rather than on a contingency fee basis, in defamation suits. That's because liability insurance won't cover the defamer — we have to reach into his or her pocket to collect on a judgment. And most defamers have little or no money to go after. So collecting on the judgment is very uncertain. And there are usually other uncertainties: Can we prove the statement was a lie, and if so, one that fits the narrow category of lies you can sue for? For example, if a client says of me, "my lawyer is an idiot", that may be a lie, but it expresses an opinion, and therefore we can't sue for it. But if the client said, "my lawyer is stealing from me", we can sue because it states an alleged fact, not an opinion, and one that — if true — would constitute a crime.

Our first question in helping the would-be client decide whether to pursue a defamation case usually is, "can you prove you were ECONOMICALLY harmed"? That's because most defamation cases are not worth the trouble or cost of bringing unless we can prove that the lies actually caused financial harm, for example loss of business or lawyer's fees defending criminal charges.

But when you are rich, and don't need to worry about the high cost of going to Court, things are different. Take Alan Dershowitz for example. He is the internationally renowned lawyer and Harvard College of Law professor who helped represent O.J. Simpson and Mike Tyson, among others. And he's no patsy. Recently, a certain Virginia Roberts made allegations that he (and Prince Andrew of Great Britain and others) had used her as a "sex slave" at lavish (and lascivious) parties when she was still 17 years old.

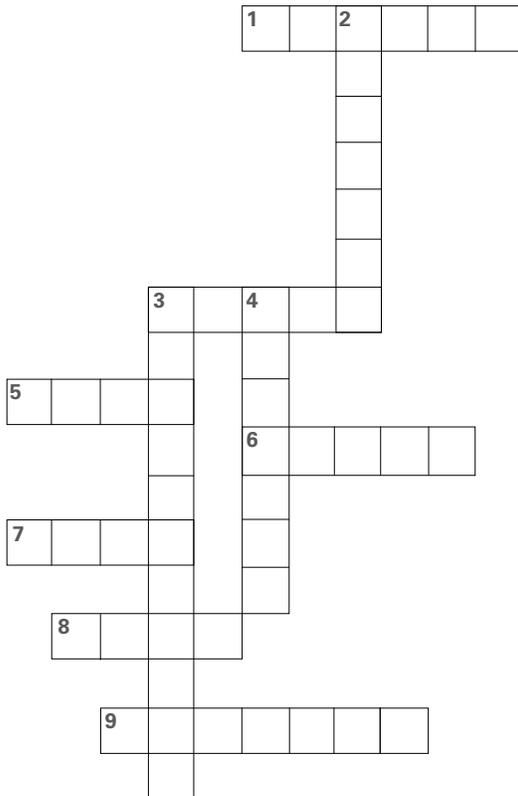
Dershowitz’ reaction was visceral and aggressive. He promised he would sue her for defamation. But his aim is not to get money. No, he has enough of that, and she probably doesn’t have enough to pay any significant judgment. So why would he sue?

Mr Dershowitz is suing to clear his name. As with any civil suit, the parties to the defamation suit have the right to take each other’s’ depositions under oath. Dershowitz plans to use this opportunity to test whether Ms. Roberts has the “hutzpah” (a word Dershowitz himself would use since he is proudly Jewish) to repeat her allegations under oath (so far her allegations are not under oath), which would constitute perjury, which is a crime. He says he hopes to get Ms Roberts jailed for perjury if she repeats the sexual abuse allegations under oath in the defamation suit.

Let’s face it, money matters. Yes, you get better medical care if you are rich, and better housing, and better food. You get better justice, too.

NEW M&S NEWSLETTER FEATURE

Legal Crossword Puzzle



ACROSS

- 1. He who commits a tort.
- 3. Special interest groups _____ to try to influence government.
- 5. A _____ jury can’t decide on guilt.
- 6. The name for the legal document filed in Court setting forth a case against the State of NY.
- 7. A proposed law before it becomes law.
- 8. A statement sworn under penalty of perjury.
- 9. An enforceable legal agreement.

DOWN

- 2. A crime involving taking something that does not belong to you.
- 3. Neither the judiciary nor the executive branches of government produces this, but the other branch of government does.
- 4. An organized effort to rally people not to buy a product.

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